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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/774,407

01/31/2001

Stephen D. Flanagan

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06/05/2006

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EXAMINER

STRANGE, AARON N

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,407

Applicant(s)

FLANAGIN, STEPHEN D.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

Response to Arguments

2. Applicant's arguments with respect to claim 1-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The claims contain numerous errors, especially with regard to antecedent basis for the claim elements. Some example are given below, but this list should not be considered exhaustive, and all errors must be corrected.

6. In claim 1, the terms "the second channel" and "the first channel" in lines 19-21 lack antecedent basis. These terms also appear in claims 12,21,22,23,24,37, and 38.

7. In claims 6 and 7, the term "the act of notifying the notification server" lacks antecedent basis.
8. In claim 21, the term "the proxy server" lacks antecedent basis. It also appears in claims 25,26,29 and 30.
9. In claim 32, the term "the method" in the preamble lacks antecedent basis. This term also appears in claims 33-36.
10. In claim 1, the term "the wireless device" in line 9 is unclear. It is unclear if it is referring to the wireless device set forth in the preamble, or the wireless device in line 6.
11. In claim 1, the term "the network device" in line 21 is unclear. It appears that this may have been a typographical error, and should have read the wireless device.
12. In claim 32, the limitation " a computer program product as recited in claim 31" is unclear, since claim 31 does not recite a computer program product. This limitation also appears in claims 33-26.
13. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 101

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 31-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

16. Claims 31-36 not limited to tangible embodiments. In view of Applicant's disclosure, specification page 8, lines 10-17, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., RAM, CD-ROM) and intangible embodiments (e.g., wireless connection). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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18. Claims 1-3,5-8,10-15,17-22,24-27,29,31-35,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pahlavan et al. ("Handoff in Hybrid Mobile Data Networks") in view of Fox et al. (US 6,654,786).

19. With respect to claims 1 and 11, Pahlavan discloses a method comprising a wireless device performing:

an act of communicating with a wireless device over a low capacity channel (GPRS) and over which data is sent by default sent from a server to the wireless device (Page 42, Col 1, ¶3);

an act of detecting that the wireless device has connected with a network device (home agent), wherein the network device is connected with the server over a high capacity channel (LAN) (Page 45, Col 1, ¶2) comprising the internet (Fig 10-12);

an act of receiving notice that the wireless device has access to the high capacity channel comprising the internet through the network device (Page 45, Col 1, ¶2);

an act of temporarily rerouting notifications that are to be sent to the wireless device over the low capacity channel to now be sent to the wireless device over the high capacity channel (Page 45, Col 1, ¶2) and until it is at a later time determined that the wireless device no longer has access to the high capacity channel (device connects with the GPRS network) and at which later time notifications will resume being sent to the wireless device over the low capacity channel (Page 45, Col 1, ¶2 and Col 2, ¶2), wherein the second (high bandwidth) channel has an availability that is less than an availability of the first (low bandwidth) channel (GPRS has much wider range than an

802.11 WLAN) and wherein the temporarily rerouting data occurs whenever the second channel is available (Page 41, Col 2, ¶2).

However, Pahlavan fails to specifically disclose that the wireless device receives notifications from a notification server over the channels.

Fox discloses a similar system for communicating between a wireless device and a server using multiple channels. Fox discloses routing notifications from a notification server to the wireless devices over the appropriate network (Col 6, Lines 64-66; Col 8, Lines 1-10; Col 13, Lines 39-47). This would have been an advantageous addition to the system disclosed by Pahlavan since it would have allowed the wireless devices to receive notification of changes from web server subscriptions (Col 5, Lines 40-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to route notification from a notification server to the wireless devices in order to allow them to subscribe to web pages and be notified of changes to them.

20. With regard to claim 2, Pahlavan further discloses that the wireless device communicates with the network device (home agent) over a communication link (WLAN), and wherein the wireless device automatically connects with the network device (Page 45, Col 1, ¶2).

21. With regard to claim 3, Pahlavan further discloses that the network device is one of a desktop computer (Fig 12), a blue tooth enabled LAN, and a kiosk.

22. With regard to claim 5, Pahlavan further discloses that the act of detecting the high capacity channel further comprises an act of communicating with a network device (AP) over a communication link (WLAN) (Page 45, Col 1, ¶2).

23. With regard to claim 6, Pahlavan further discloses that the act of notifying the notification server comprises an act of sending an access notification to the notification server, wherein the access notification identifies that the high capacity channel is available for notifications sent to the wireless device (Page 45, Col 1, ¶2).

24. With regard to claim 7, Pahlavan further discloses that the act of notifying the notification server further comprises an act of providing the notification server with a new address, wherein the notifications are routed to the new address (Page 45, Col 1, ¶2).

25. With regard to claim 8, Pahlavan further discloses an act of detecting that the wireless device no longer has access to the high capacity channel (device loses connection to WLAN and switches to GPRS)(Page 45, Col 1, ¶2).

26. With regard to claim 10, Pahlavan further discloses notifying the notification server over the low capacity channel that notifications can no longer be sent over the

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high capacity channel (FA is activated and new address is assigned after connection to GPRS) (Page 45, Col 1, ¶2).

27. Claims 12-20 are rejected under the same rationale as claims 1-3,5-8,10 and 11, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

28. With regards to claim 21,25 and 26, Fox further discloses a proxy server that re-routes the notifications over the appropriate channel (Fig 4, 114 and Col 13, Lines 39-67).

29. Claims 22,24,27,29,31-33 and 35 are rejected under the same rationale as claims 1-3,5-8,10 and 11, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

30. With regard to claim 37, Pahlavan further discloses that it is more costly to use the first channel than the second channel (WLAN is cheaper than GPRS) (Page 435, Col 1, ¶2).

31. With regard to claim 38, Pahlavan further discloses that the first channel is substantially always available for notifications to be sent to the wireless device (GPRS is substantially always available) (Page 41, Col 2, ¶2).

32. Claims 4,23,28 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pahlavan et al. ("Handoff in Hybrid Mobile Data Networks") in view of Fox et al. (US 6,654,786) in further view of West et al. (US 6,449,722).

33. With regard to claims 4,23,28 and 36, while the system disclosed by Pahlavan and Fox shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that the communication link between the wireless device and the network device is one of a serial link, a USB link, a wireless Bluetooth link, and an infrared link or that the wireless device connects to the network device via a docking station.

West discloses a similar system for routing data to a wireless device over multiple channels. West discloses docking a wireless device to a network device (LAN connect 34) in order to access a wired network (at least Col 3, Lines 23-26). It is well known in the art that docking stations typically connect over serial or USB links. This would have been an advantageous addition to the system disclosed by Pahlavan and Fox since it would have allowed the wireless devices to access the internet via wired networks.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow docking of the wireless devices in order to provide the devices with access to the Internet via wired networks.

34. Claims 9,16 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Pahlavan et al. ("Handoff in Hybrid Mobile Data Networks") in view of Fox et al. (US 6,654,786) in further view of Hibbard (US 2001/0056503).

35. With regard to claims 9,16 and 30, while the system disclosed by Pahlavan and Fox shows substantial features of the claimed invention (discussed above), it fails to disclose determining that the wireless device no longer has access to the high capacity channel if the notification server does not receive an acknowledgement to a notification within a predetermined period.

Hibbard teaches determining that a connection has failed if an acknowledgment has not been received within a predetermined time period, and subsequently connecting on a secondary connection (§26). This would have been an advantageous addition to the system disclosed by Pahlavan and Fox since it would have allowed the server to determine if a connection has failed without waiting for information from the wireless device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to determine that the high capacity channel is no longer

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available if the notification server does not receive an acknowledgement to a notification within a predetermined period.

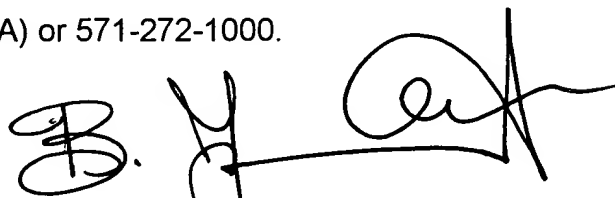
Conclusion

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
5/26/06



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